

Advisory Opinion

IECDB AO 2006-04

March 30, 2006

Robert Koppin
Attorney
Iowa Insurance Division
330 Maple Street
Des Moines, Iowa 50319-0065

Dear Mr. Koppin:

This opinion is in response to your letter of January 31, 2006, and subsequent email of February 3, 2006, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board pursuant to Iowa Code section 68B.32A(11) and Board rule 351—1.2. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as an attorney for the Iowa Insurance Division (Division) of the Department of Commerce. You advise us that the Division operates a federally funded program called the Senior Health Insurance Information Program (SHIIP). SHIIP counsels Iowa senior citizens on various insurance and health issues.

You further advise us that SHIIP utilizes 270 volunteers throughout the state. Volunteers receive reimbursements, incidental services, and other items that may be considered gifts. The Division believes that items given to SHIIP volunteers do not trigger the requirements to file a gift, bequest, or grant report under Iowa Code section 8.7.

QUESTION:

Do gifts provided to SHIIP volunteers trigger the requirement for the Iowa Insurance Division to file a gift, bequest, or grant report with the Iowa Ethics and Campaign Disclosure Board?

OPINION:

In 2005 Iowa Acts, Chapter 173, section 27, the General Assembly enacted new Iowa Code section 8.7 that requires, in part, “all gifts, bequests, and grants received by a department or accepted by the governor on behalf of the state” to be reported to the Board.

In reviewing the information you provided in your opinion request, it appears that items or services being provided to SHIIP volunteers benefit the volunteers or benefit the federal program. No benefit from the items being received by SHIIP volunteers appears to inure to the benefit of the Division.¹ Therefore, the Division would not be required to file a gift, bequest, or grant report with the Board disclosing items or services provided to SHIIP volunteers.

In closing, we do note that if the providing of a good or service to a SHIIP volunteer provides a tangible benefit to the Division such as reducing costs of the Division in running the program, then this would constitute a reportable “gift” under the statute. If you have a question about a specific situation and whether or not a gift report would be required, we invite you to submit an additional opinion request.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

Janet Carl, Vice Chair

Gerald Sullivan

Betsy Roe

John Walsh

Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹While there might be some good will or publicity for the Division created by this situation, we do not believe there exists a tangible “gift” that triggers the reporting requirement.